

**ASSEMBLY BILL**

**No. 1881**

---

**Introduced by Assembly Member Tran**

February 4, 2008

---

An act to add Section 6593.7 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1881, as introduced, Tran. Sales and use tax: interest abatement.

The Sales and Use Tax Law imposes interest on taxes that are not paid to the state within the time required by law, from the date on which the amount of tax became due and payable until the date of payment. Existing law allows the Board of Equalization to relieve interest upon the unreasonable error of delay by an employee of the Board of Equalization or Department of Motor Vehicles or when the untimeliness is caused by disaster.

This bill would not impose interest on unpaid sales and use tax liability during the time that a qualified small business with a qualified tax liability has a bankruptcy case pending under Chapter 7 of the Bankruptcy Code, as specified, provided that the bankruptcy case is not dismissed under the Bankruptcy Code.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6593.7 is added to the Revenue and
- 2 Taxation Code, to read:

1 6593.7. (a) Notwithstanding any other provision of this part,  
2 a qualified tax liability shall not bear interest during the period in  
3 which a qualified small business has a case pending under Chapter  
4 7 of Title 11 of the United States Code, otherwise known as  
5 Chapter 7 of the Bankruptcy Code.

6 (b) For purposes of this section, “pending” means the period  
7 beginning on the first day of the month following the date the  
8 bankruptcy petition under Chapter 7 of the Bankruptcy Code is  
9 filed, or, if the case is converted from another chapter to a case  
10 under Chapter 7 of the Bankruptcy Code, on the first day of the  
11 month following the date the case is converted, and ending on the  
12 last day of the month following the date that the case is closed or  
13 converted to a case under another chapter of the Bankruptcy Code.

14 (c) For purposes of this section, “qualified small business”  
15 means a trade or business that has average annual total sales of  
16 less than one million dollars (\$1,000,000). A trade or business has  
17 average annual total sales of less than one million dollars  
18 (\$1,000,000) if, for the three-year calendar period ending on the  
19 last day of the month immediately prior to the date the case  
20 commenced under Chapter 7 of the Bankruptcy Code, the  
21 taxpayer’s average yearly total sales, less deductions for returned  
22 merchandise and cash discounts, did not exceed one million dollars  
23 (\$1,000,000). If a trade or business has been in existence for less  
24 than three years, the trade or business has average annual total  
25 sales of less than one million dollars (\$1,000,000) if the average  
26 quarterly total sales, less deductions for returned merchandise and  
27 cash discounts, during the period the trade or business existed and  
28 ending on the last day of the month immediately prior to the date  
29 the case commenced under Chapter 7 of the Bankruptcy Code, did  
30 not exceed two hundred fifty thousand dollars (\$250,000).

31 (d) For purposes of this section, “qualified tax liability” mean  
32 a tax liability that is due and payable to the state as of the date the  
33 qualified small business filed a bankruptcy petition under, or  
34 converted a bankruptcy case to, Chapter 7 of the Bankruptcy Code.

35 (e) This section shall not apply if the case pending under Chapter  
36 7 of the Bankruptcy Code is dismissed.